

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ELKINS DIVISION

REGAL COAL, INC., et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:03-cv-00090

DOMINICK LAROSA, et al.,

Defendants.

ORDER

Pending before the court are the defendants' Motion for Entry of Judgment Order [Docket 220], and the plaintiffs' Motion to Seal Exhibit and Expedite Hearing [Docket 222]. For reasons appearing to the court, the defendants' motion is **GRANTED**, and the plaintiffs motion is **DENIED**.

I. Background

After a long, tortured history, the parties to this case entered into a settlement agreement and stipulated to dismiss this action after a panel of arbitrators made an award. (*See* Docket 147.) After hearing over forty-five days of testimony and argument, the issues in this case were finally resolved by an Arbitration Panel that the parties chose pursuant to that earlier settlement agreement. The fruit of this labor is a very detailed, comprehensive and lengthy unanimous "Memorandum Opinion and Final Award of the Arbitration Panel." The defendants have moved for this court to enter a Judgment Award incorporating the Memorandum Opinion and Final Award as part of the judgment in this case.

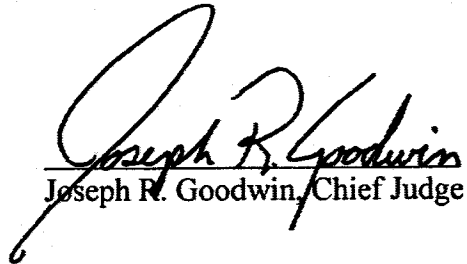
II. Analysis

The plaintiffs filed their motion after the defendants attached the Arbitration Panel's Memorandum Opinion and Final Award as an exhibit to the Motion for Entry of Judgment Order. The plaintiffs contend that the Memorandum Opinion and Final Award should be sealed, and that by including it as an attachment, the defendants have breached § 8.1 of the Arbitration Protocol. The plaintiffs argue that the Memorandum Opinion contains information that is "confidential and subject to the protect[ion] of § 8.1 of the Arbitration Protocol." (See Docket 222, ¶ 19.) The plaintiffs further state that "[t]he actual award of the Panel does not incorporate said confidential information." (See Docket 222, ¶ 20.) This argument is not supported by the documents received by the court or the clerk. The document the plaintiffs wish to seal is titled "Memorandum Opinion and Final Award of the Arbitration Panel." The court has not seen a Final Award that exists independent from the Memorandum Opinion. This understanding appears to be congruent with the Arbitration Panel's understanding of the document. See Ltr. from Arbitration Panel, Docket 220, Exh. 4 ("Enclosed is the unanimous Memorandum Opinion and Final Award of the Arbitration Panel in the above-referenced matter ('Award').") (emphasis added).

Further, the plaintiffs have failed to offer proof that portions of the Memorandum Opinion and Final Award do contain confidential material. The defendants argue that the Arbitration Panel was aware of any confidential information and did not include such information in the Memorandum Opinion and Final Award. Without a showing of confidential information or prejudice, the court cannot find that the material should be sealed. The plaintiffs' motion is therefore **DENIED**. The defendants' motion is **GRANTED**, and a judgment order will follow.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 10, 2008


Joseph R. Goodwin, Chief Judge